

REPRESENTATIVE FOR PETITIONER:

Denise Stratton, pro se

REPRESENTATIVE FOR RESPONDENT:

Michael R. Schultz, pro se

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

DENISE STRATTON,)	Petition No.:	46-009-17-1-5-00616-18
)		
Petitioner,)	Parcel:	46-05-04-151-030.000-009
)		
v.)	County:	LaPorte
)		
LAPORTE COUNTY ASSESSOR,)	Assessment Year:	2017
)		
Respondent.)		

Appeal from the Final Determination of the
LaPorte County Property Tax Assessment Board of Appeals

July 03, 2019

FINAL DETERMINATION

The Indiana Board of Tax Review (“Board”) having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

INTRODUCTION

1. Stratton timely applied for homestead and mortgage deductions for the 2017 assessment year, but the Auditor denied both deductions because Stratton failed to include her Social Security Number (“SSN”) and listed her Michigan driver’s license number on the homestead deduction claim form (“Form HC10”).¹ Because Stratton owned the property and occupied it as her principal place of residence, we conclude she was eligible to receive the homestead deduction. Additionally, because she was an Indiana resident and owned the property subject to a mortgage, we conclude she qualified for the mortgage deduction as well. Accordingly, Stratton is entitled to both deductions for the 2017 assessment year.

PROCEDURAL HISTORY

2. On April 11, 2018, Stratton initiated an appeal challenging the denial of her claims to 2017 homestead and mortgage deductions for her property located at 3105 Maple Street in Michigan City, Indiana. On April 20, 2018, the LaPorte County Property Tax Assessment Board of Appeals (“PTABOA”) issued its determination denying her relief.² Stratton responded by timely filing a Form 131 petition with us.
3. On April 11, 2019, the Board’s designated administrative law judge, Ellen Yuhan (“ALJ”), held a hearing on the petition. Neither she nor the Board inspected Stratton’s property.
4. Denise Stratton and LaPorte County Assessor Michael R. Schulz both appeared pro se. Stratton, Schulz, and LaPorte County Auditor Joie Winski testified under oath.

¹ The parties and their witnesses used the terms “homestead deduction” and “homestead exemption” interchangeably throughout their respective presentations and testimony. There is no statute that exempts homesteads from taxation. The Board infers that the parties are referring to the standard deduction for homesteads provided for under Indiana Code § 6-1.1-12-37 and we will use the term “homestead deduction.”

² The Form 115 indicates that the PTABOA denied Stratton’s homestead deduction. It does not mention her mortgage deduction claim. However, Stratton referenced both deductions in her Form 131 and the parties proceeded before us as if both deductions were at issue. We will therefore address them both.

5. Stratton submitted the following exhibits:

Petitioner Exhibit 1:	2017 Indiana Income Tax Return (Confidential)
Petitioner Exhibit 2:	2017 Mortgage Interest Statement (Confidential)
Petitioner Exhibit 3:	Tax bill for 2016 payable 2017
Petitioner Exhibit 4:	2018 Mortgage Interest Statement (Confidential)
Petitioner Exhibit 5:	Tax bill for 2017 payable 2018
Petitioner Exhibit 6:	Document showing the reason the homestead and mortgage deductions were not applied
Petitioner Exhibit 7:	Form HC10 filed December 16, 2016 (Confidential)
Petitioner Exhibit 8:	Form HC10 filed April 10, 2018 (Confidential)
Petitioner Exhibit 9:	Series of e-mails regarding Stratton's homestead deduction

6. The Assessor submitted the following exhibits:

Respondent Exhibit 1:	Summary of the issues
Respondent Exhibit 2:	Summary of the actions taken by the Auditor's staff
Respondent Exhibit 3:	Page 2 of the Form HC10
Respondent Exhibit 4:	Document showing the reason the homestead and mortgage deductions were not applied
Respondent Exhibit 5:	Copy of Stratton's temporary Indiana driver's license (Confidential)
Respondent Exhibit 6:	Form HC10 filed December 16, 2016 (Confidential)
Respondent Exhibit 7:	Page 1 of 2017 Indiana Income Tax Return (Confidential)
Respondent Exhibit 8:	Page 2 of 2017 Indiana Income Tax Return (Confidential)

7. The record also includes the following: (1) all pleadings, briefs, and documents filed in the current appeal; (2) all orders, notices, and memorandum issued by the Board or our administrative law judge; and (3) an audio recording of the hearing.

SUMMARY OF STRATTON'S CASE

8. Stratton purchased the property in 2016. On December 16, 2016, she went to the Auditor's office to file for the homestead and mortgage deductions. The clerk at the office filled out the paperwork for her and Stratton signed the form. Stratton had no idea

that they needed additional information when she left the office. She knows her SSN and could have provided it on the form that day. *Stratton testimony; Pet'r Exs. 2, 3, 4, 7.*

9. Stratton received no notification by mail or phone requesting additional information. She was not aware her deduction claims were denied until she received her tax bill in 2018. She contacted the Auditor's office and was told the form was missing information and that she needed to bring her Indiana driver's license in to get it filed. Stratton took her driver's license to the Auditor's office where she was told the deductions would apply going forward but they could not go back. *Stratton testimony; Pet'r Exs. 5, 6, 8.*
10. While the Auditor said Stratton did not live in Indiana at the time she purchased her house, she has lived in Indiana since 2015, a year before she purchased the house. Stratton had a Michigan driver's license because she was going through a divorce and was still under her husband's auto insurance. Her 2017 Indiana income tax return shows she was an Indiana resident for all of 2017. *Stratton testimony; Pet'r Exs. 1, 9.*

SUMMARY OF THE ASSESSOR'S CASE

11. The Assessor agrees that Stratton came to the Auditor's office on December 16, 2016 to file for the homestead and mortgage deductions. When Stratton came in, she had a Michigan driver's license. The Auditor's office requested that Stratton return with her Indiana license so they would have proof she was a primary resident of Indiana. Stratton also failed to supply the last five digits of her SSN on the form, which is a requirement. *Winski testimony; Resp't Exs. 1, 2, 3, 4, 6.*
12. The Auditor's office tried to reach Stratton by phone and sent her paperwork, but she did not return. When they did not hear from Stratton by the end of December 2017, they placed her deduction application in the closed file. The Auditor subsequently rejected Stratton's application on March 6, 2018.³ *Winski testimony; Resp't Exs. 2, 4.*

³ We note that the March 6, 2018 entry shown on Respondent Exhibit 4 lists Stratton's failure to provide her SSN as the sole reason the Auditor denied the deduction.

13. On April 11, 2018, Stratton returned to the Auditor’s office with her Indiana driver’s license.⁴ When she came in, she completed another deduction form and the homestead deduction was applied going forward. Stratton asked for the deduction to be applied for the previous year, but the statute does not allow auditors to go back. *Winski testimony; Resp’t Exs. 3, 5.*

14. To be fair to every constituent, the Auditor’s staff treats everyone in the same manner. The forms are filled out with the required information in exactly the same way for every person. Stratton’s deduction form did not have her SSN and she had a Michigan driver’s license, which is why the Auditor rejected it. *Winski testimony; Resp’t Ex. 6.*

15. It is not incumbent on the Auditor, the Assessor or any other officeholder to fill out forms. The Auditor’s clerk filled out the form as a courtesy, but it is the taxpayer’s responsibility to fill out the forms correctly. *Schultz testimony.*

ANALYSIS AND CONCLUSIONS OF LAW

16. Indiana Code § 6-1.1-12-37 offers a standard deduction for homesteads. That statute provides, in relevant part:

The following definitions apply throughout this section:

...

(2) “Homestead” means an individual’s principal place of residence:

(A) that is located in Indiana;

(B) that:

(i) the individual owns;

...

(C) that consists of a dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds the dwelling.

...

⁴ Winski testified, “I didn’t receive her [Stratton’s] Indiana driver’s license until May 11 of 2018 and I took a copy of it. That tells us that she got it the same day she came back in.” However, the copy of Stratton’s temporary Indiana driver’s license the Assessor submitted has an issue date of April 11, 2018. *Resp’t Ex. 5.* And the two narratives the Assessor submitted both state that Stratton returned to the office on April 11, 2018. *Resp’t Exs. 1, 2.* The April 11, 2018 date also corresponds with the filing date of Stratton’s Form 130 petition (attached to her Form 131 petition). Thus, we find that Stratton went to the Auditor’s office on April 11, 2018.

- (b) Each year a homestead is eligible for a standard deduction from the assessed value of the homestead for an assessment date. The deduction provided by this section applies to property taxes first due and payable for an assessment date only if an individual has an interest in the homestead described in subsection (a)(2)(B) on:
- (1) the assessment date; or
 - (2) any date in the same year after an assessment date that a statement is filed...

Ind. Code § 6-1.1-12-37(a)-(b).

17. At all times relevant to this appeal, taxpayers had to apply for the homestead deduction in one of two ways. Taxpayers could file a certified statement with the county auditor on the Form HC10 prescribed by the Department of Local Government Finance (“DLGF”). Ind. Code § 6-1.1-12-37(e); 50 IAC 24-4-2. Taxpayers had to complete a Form HC10 within the calendar year for which the deduction was sought and file that form on or before January 5 of the immediately succeeding year. Ind. Code § 6-1.1-12-37(e). Alternatively, taxpayers could use a sales disclosure form to claim the deduction at the time of purchase. Ind. Code § 6-1.1-12-44; 50 IAC 24-4-3.
18. Here, Stratton timely filed a Form HC10 to claim the homestead deduction for 2017. But the Auditor rejected Stratton’s deduction claim because she failed to provide her SSN on the Form HC10. Indiana Code § 6-1.1-12-37(e) does require taxpayers to include the last five (5) digits of their SSN on the Form HC10.⁵ We therefore understand the Auditor’s reluctance to grant the deduction. However, Stratton credibly testified that a clerk in the Auditor’s office filled out the paperwork for her and that she just signed the form. While we agree that it is ultimately the taxpayer’s responsibility to include all of the required information, we credit Stratton’s testimony that she could have provided her SSN that day if asked. Given these circumstances, along with the fact that the statute does not specify any consequences for failing to include the required information, we conclude

⁵ If the taxpayer does not have a SSN, the HC10 must include the last five (5) digits of either the taxpayer’s driver’s license number, state identification card number, or preparer tax identification number issued by the IRS. If the taxpayer has none of those, they must include the last five (5) digits of a control number from a document issued by the United States government. Ind. Code § 6-1.1-12-37(e)(4).

that Stratton's Form HC10 substantially complied with the requirements of Ind. Code § 6-1.1-12-37(e).

19. Once a taxpayer files a Form HC10, a taxpayer's eligibility controls whether she is entitled to the deduction. To be eligible for the homestead deduction, a taxpayer needs to have a property meeting the statutory definition of a homestead. Ind. Code § 6-1.1-12-37(b). Again, as relevant here, a homestead is a dwelling located in Indiana that an individual owns and uses as her principal place of residence and up to one acre of surrounding land. Ind. Code § 6-1.1-12-37(a)(2). The first section of the Form HC10 contains a certification statement in which taxpayers certify that they own and occupy the property as their principal place of residence. Thus, auditors generally need not inquire further before granting the deduction. Nevertheless, auditors may require an individual to provide evidence such as a state income tax return, a valid driver's license, or a valid voter registration card to confirm that a property is truly the taxpayer's principal place of residence. Ind. Code § 6-1.1-12-37(j).
20. In this case, the Auditor required Stratton to provide an Indiana driver's license to prove her residency before approving the deduction. And Stratton's subsequent failure to comply was an additional reason the Auditor gave for denying the deduction.⁶ At this stage of the appeals process, however, we are only concerned with whether Stratton has presented us with sufficient evidence to prove that she is eligible to receive the homestead deduction for the 2017 assessment year.
21. It is undisputed that Stratton purchased the property (consisting of a dwelling and less than an acre of real estate located in Indiana) in 2016, owned the property at the time she applied for the deduction, and continued to own it throughout 2017. Thus, the only

⁶ Stratton never received any verbal or written requests for her Indiana driver's license. Nor was she aware the Auditor had denied her deduction claim until she received her tax bill in 2018. If an auditor determines that the taxpayer's property is not eligible for the deduction, she is required to inform the taxpayer of her decision in writing. Ind. Code § 6-1.1-12-37(o). However, we note that subsection 37(o) does not provide a deadline for issuing the written decision. Nor does it provide any specific remedies if an auditor fails to comply. Because neither party offered any meaningful argument on the issue, and we are ultimately able to resolve Stratton's homestead claim on other grounds, we do not address it further.

question remaining is whether Stratton demonstrated that the property was her principal place of residence in 2017.

22. Although Ind. Code § 6-1.1-12-37 does not define principal place of residence, the DLGF defines that term as “an individual’s true, fixed, permanent home to which the individual has the intention of returning after an absence.” 50 IAC 24-2-5. Because Stratton’s 2017 Indiana income tax return confirms that she resided at the property for all 12 months, we conclude that it was Stratton’s principal place of residence.⁷ She is therefore eligible to receive the homestead deduction for the 2017 assessment year.

23. We now turn to the mortgage deduction. As relevant here, Indiana Code § 6-1.1-12-1 provides Indiana residents with an outstanding mortgage balance a deduction from the assessed value of their property. The total amount of the deduction a taxpayer may receive for a particular year is the lesser of: 1) the balance of the mortgage; 2) one-half (1/2) of the assessed value of the real property; or 3) three thousand dollars (\$3,000). Ind. Code § 6-1.1-12-1(c). A taxpayer has to apply for the deduction by filing a statement completed and dated in the calendar year for which the person wishes to obtain the deduction with the county auditor on or before January 5 of the immediately succeeding calendar year. Ind. Code § 6-1.1-12-2(c).

24. As noted above, the March 6, 2018 entry shown on Respondent Exhibit 4 lists Stratton’s failure to provide her SSN as the sole reason the Auditor denied the mortgage deduction. But the mortgage deduction statutes do not even mention a SSN, let alone require its inclusion to qualify for or to claim the deduction.⁸ We therefore suspect the Auditor may have actually premised the denial on Stratton’s failure to show that she was an Indiana resident in 2017.

⁷ Although we do not rely on it in reaching our conclusion because it is expired, Stratton’s use of the property’s address on her temporary Indiana driver’s license is a further indication that she intended to make the property her permanent home.

⁸ We also note that the application form prescribed by the DLGF (State Form 43709) does not contain a space for taxpayers to provide a SSN.

25. However, Stratton's 2017 Indiana income tax return confirms that she was an Indiana resident throughout that year. And her 2017 Mortgage Interest Statement demonstrates that she had an outstanding mortgage balance. Stratton also submitted a copy of her receipt showing that she timely filed a State Form 43709 to claim the deduction. Thus, we conclude that Stratton is eligible to receive the mortgage deduction for the 2017 assessment year.

SUMMARY OF FINAL DETERMINATION

26. Stratton is entitled to homestead and mortgage deductions for the 2017 assessment year.

The Final Determination of the above captioned matter is issued on the date first written above.

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.